

Sponsor(s): Peter Denmark, Daniel Blair
Introduced by: City Manager
1st reading: 05/18/2021
2nd reading/public hearing: 06/15/2021

**CITY OF WHITTIER, ALASKA
ORDINANCE #02-2021**

**AN ORDINANCE OF THE CITY COUNCIL OF WHITTIER, ALASKA AMENDING
WMC CHAPTER 2.54 TO REMOVE ALL DECISION-MAKING DUTIES OF THE PORT
AND HARBOR COMMISSION, CODIFY PROCESS FOR PROVIDING
RECOMMENDATIONS TO COUNCIL, AND REMOVE INCONSISTENCIES AND
REDUNDANCY IN THE REASONS FOR AND PROCESSES SURROUNDING THE
DECLARATION OF A VACANCY ON THE COMMISSION**

WHEREAS, WMC Chapter 2.54 currently requires the Port and Harbor Commission to conduct decision-making actions despite the Commission's advisory nature; and

WHEREAS, WMC Chapter 2.54 also contains inconsistent and redundant provisions governing the appointment and duties of Commission members; and

WHEREAS, the Code does not specify how and when the Commission presents its recommendations to Council regarding port and harbor matters; and

WHEREAS, Council members have expressed the need to limit the Commission's duties to actions that align with its advisory role and to provide clear guidance to current and future Commission members regarding the presentation of Commission recommendations to Council; and

WHEREAS, it is in the City's best interest to adopt clear and consistent laws that the public and City officials are able to follow and enforce,

NOW, THEREFORE, THE WHITTIER CITY COUNCIL ORDAINS:

Section 1. Whittier Municipal Code Chapter 2.54 entitled "Port and Harbor Commission" is amended to read as follows:

Chapter 2.54

PORT AND HARBOR ADVISORY COMMISSION

[ADDED LANGUAGE BOLD AND UNDERLINED; DELETED LANGUAGE STRICKEN THROUGH]

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Sections:

- 2.54.010 Definitions.
- 2.54.020 Membership – Organization.
- 2.54.030 Procedures generally.
- 2.54.040 Duties.
- 2.54.050 Filling of vacancies.
- 2.54.060 Cooperation of other agencies – Staff.

2.54.010 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section unless from the context a different meaning is clearly intended:

“Commission” means the City Port and Harbor Advisory Commission.

“Port and harbor facilities” or “port and harbor facility” ~~“Port” or “port facility”~~ means all facilities, systems, **docks**, and City property adjacent to all navigable contiguous waterways within the City limits, ~~of the City,~~ including, but not limited to, **the Delong Dock**, the fuel dock, the City cargo dock, the small boat harbor, the ocean dock, and any other similar facility presently existing or which may be developed or obtained in the future.

2.54.020 Membership – Organization.

A. The Port **and Harbor Advisory** Commission shall consist of seven members. At least five members shall be **City** residents. **Two members of the Commission may be individuals with knowledge and expertise in the maritime industry that are not City residents but are Alaska residents and are able to meet the duties required under this chapter.** ~~Up to a maximum of two (with expertise) may be nonresidents of Whittier who are registered to vote in the State of Alaska.~~ **Commission** ~~The seven members shall be appointed by the Mayor subject to confirmation by the City Council. Appointments to the Commission shall be for three-year staggered terms except where an interim appointment is necessary to complete the term of a Commissioner who vacates **his or her seat**, resigns, dies, or is otherwise removed from office. In the event of vacancies, the Mayor, subject to confirmation by the City Council, shall make an appointment to fill the unexpired term of the absent member. Members may be removed by the City Council at any time.~~ **A Chairperson and Vice-Chairperson of the Commission shall be elected annually** ~~Chairpersons shall be elected by and from the Commission and shall serve in this capacity for a one-year period. The City shall provide staff support for the Commission.~~

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~~B. The Commission shall establish rules of procedure providing that there be regular meetings of the Commission. The Port and Harbor Commission shall hold regular meetings theevery first Thursday of each month at a date, time and place as set by the Commission. Special meetings may be called by the Commission via motion or at the discretion of the chairperson, or by a majority of the voting members of the Commission. No member shall miss more than three consecutive regular meetings or three unexcused meetings. All meetings of the Commission shall be open to the public.~~

~~C. A majority of the Commission shall constitute a quorum for the transaction of business. Four affirmative votes by Commission members shall be necessary to carry any question.~~

~~D. The Commission shall, with the assistance of the City Manager or his designee, prepare minutes of all Commission meetings and file the minutes with the City Clerk no more than 30 days after the meeting. The permanent records, or minutes, shall be kept. The minutes shall be properly filed in the office of the City Clerk and shall be open to inspection by any person.~~

~~E. To the extent possible, Commission membership will be made up of representatives of recreation industry, transportation industry, tourism industry, and commercial fishing industry.~~

2.54.030 Procedures generally.

~~A. The Commission shall act as an advisory board to the City Council in port and harbor matters. The Commission shall present all recommendations to City Council via resolution. A Commission member shall be present at all Council meetings at which a Commission resolution is presented to City Council. All resolutions and either minutes of the Port Commission, or a similar report, shall be presented to the City Council by a Commission member, or in his absence, by the City Manager.~~

~~B. A Commission member shall attend all City Council regular meetings and provide Council with an update regarding the Commission's last meeting and outstanding projects. If a Commission member is not available to provide the report, a written update and the Commission minutes shall be submitted to the City Clerk for presentation to City Council no more than 30 days after the Commission meeting. An agenda of meetings shall be prepared and published according to established rules of the City Council.~~

2.54.040 Duties.

The Commission shall:

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~~A. Advise the~~ **Make recommendations to City** Council with respect to the operation, **acquisition, disposal, development,** management, regulation and control of the City's port and harbor facilities **when requested by City Council or the City Manager or as required in this chapter;** which include, but are not limited to, the City dock, the fuel dock, the small boat harbor, ocean dock, and any other facility within the port of Whittier, all of which are referred to in this chapter as the "port facilities";

~~B. Advise the Council with respect to the port facilities concerning the acquisition, ownership, exchange, transfer, lease, rent, conveyance or disposal, and use of real or personal property and any interest therein;~~

BG. Review and make recommendations to City Council via resolution on all contracts regarding port and harbor facilities which are subject to City Council approval before City Council approves such contracts and submit a written report to City Council periodically and at least once per year updating City Council on prior to execution, and monitor and periodically report to the Council concerning the status of all all contracts involving port and harbor facilities that were or are subject to City Council approval; ~~executed with respect to the port facilities;~~

~~D. Advise the Council with respect to the construction, improvement, alteration, or repair of a port facility or any part thereof;~~

CE. Review any proposed revision to this code, City policy, procedure or regulation impacting or regarding port and harbor facilities and make recommendations to City Council via resolution regarding the adoption of such revisions prior to their adoption; ~~Assist the Council in developing ways and means whereby the City may encourage and permit the development of port facilities by private and public developers and builders;~~

~~F. Hear appeals from actions of the Port Director;~~

DG. Analyze ~~Perform analysis and make recommendations to the Council~~ **annually regarding** with respect to the setting and adjustment by the City, from time to time as deemed necessary, of **rates and fees charged for the use of port and harbor facilities or related services and any recommended changes to these rates and fees;** ~~rent and fee schedules pertaining to port facilities and of routes, fares, schedules, and levels of service pertaining to use of the port facilities;~~

EH. Periodically review the budget, capital improvement programs, and funding of port and harbor facilities ~~City-owned or municipal port facility and systems, and report its findings to the Council;~~

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~~I. Establish fares, rates, or fees which will pay the cost of operation, administration, maintenance, and replacement of facilities at the end of the expected life of those facilities;~~

~~J. Perform such other duties as the Council may refer to it from time to time;~~

~~K. Do such other acts as are necessary and proper for the performance of the duties and functions set forth in this chapter.~~

2.54.050 Filling of vacancies.

A vacancy shall be declared and filled as provided when a **Commission** member:

~~A. Fails to qualify and take his office within 30 days after confirmation by the City Council;~~

~~B. Departs from the City with the intent to remain away for a period of 90 days or more, or is physically absent from the City for 90 days or more;~~

BC. Submits a resignation to the Mayor;

CD. Is physically or mentally unable to attend Commission meetings or to attend to Commission business;

DE. Is absent from three or more consecutive, regular meetings of the Commission without an excuse approved by the Commission;

EF. Is convicted of a felony or other offense, an element of which is a violation of his or her oath of office;

FG. Is or becomes so directly interested in port and harbor matters in the course of his or her private affairs, that his or her membership on the Commission, and the belief of the Commissioners or the City Council, creates a conflict or the pervasive appearance of a conflict of interest.

2.54.060 Cooperation of other agencies – Staff.

A. The ~~Port~~ Commission, as an advisory board of the City Council, shall receive full cooperation and support from the City Manager which shall include, but not be limited to, full access to any and all information bearing on **port and harbor facilities**~~the port and harbor matters~~, office or other administrative support, and the attendance of the City Manager and staff as may be required by the Commission in the execution of its duties.

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B. The Commission shall be provided with such office space as it shall require to file its minutes, correspondence, resolutions, ~~administrative regulations~~, and other documents which shall constitute public records of the City.

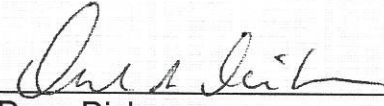
C. The City Manager shall, in a prompt and expeditious manner, make available to the ~~Port~~ Commission such consultants, agents, attorneys, City staff, and other persons engaged by the City to aid the Commission in furtherance of the performance of the Commission's duties.

Section 2. Classification. This Ordinance is a permanent code ordinance.

Section 3. Severability. If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

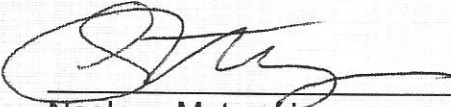
Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 15th day of June, 2021.



Dave Dickason
MAYOR

ATTEST:



Naelene Matsuriya
CITY CLERK

Ayes: 6
Nays: 0
Absent: 1
Abstain: 0

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